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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,071	05/24/2001	Bernard R. Neustadt	CN01180K1	6717

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
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EXAMINER

FORD, JOHN M

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 10/03/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/055071

Applicant(s)

Neustadt + Oel

Examiner

J. M. Ford

Group Art Unit

1624

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 30 DAYS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-20 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1624

The claims in the application are claims 1--20.

This application has been found to contain more than one invention. Therefore, restriction to one of the following distinct inventions is required:

- Group (I) Claims 1--10 drawn to compounds of Formula I in class 544.
- Group (II) Claims 11--14 drawn to a pharmaceutical composition and multiple methods of use.
- Group (III) Claim 15 a process of preparing a compound of Formula II.
- Group (IV) Claim 16 directed to another process of preparing compounds of the formula II.
- Group (V) Claim 17 drawn to the preparation of the compounds of the formula IIIa.
- Group (VI) Claims 18--20 drawn to a pharmaceutical composition and methods that have additional active ingredients.

These distinct inventions have acquired separate status in the art, will support separate patents, and will require different fields of search for the respective inventions. Accordingly, restriction for examination purposes, as indicated, is considered proper; 35 U.S.C. 121; 37 CFR 1.141 and 37 CFR 1.142.

In regard to Group II, MPEP 806.05(h) provides for restriction where the compounds may be used for more than one purpose. Claims 12, 13 and 14 act as evidence claims to that allegation.

Art Unit: 1624

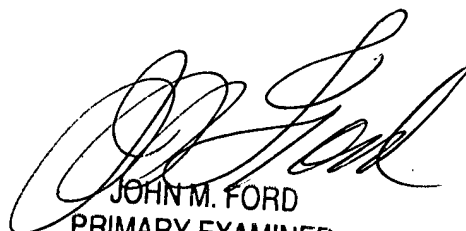
Claims 15 and 16 are restricted as MPEP 806.05(f) provides for restriction where the compounds may be produced by more than one process. Claims 15 and 16 are evidence claims to that assertion.

Claims 18--20 are restricted out, as they are not of the same scope, as claim 1, as they have additioned active ingredients that would change the classification and search of these claims.

Applicants' response must include a provisional election, even if the requirement be traversed, see 37 CFR 1.143 and 37 CFR 1.144.

John M. Ford:jmr

October 1, 2002


JOHN M. FORD
PRIMARY EXAMINER
GROUP - ART UNIT 1624